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IN THE

Supreme Court of the United States

Term, 1966

No. 1254

ABDULLAH AHMAD BEY, ET AL.,
Petitioners

v.

FRANCIS MULDOON, ET AL.,
Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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TABLE OF CONTENTS

	Page
Citations to Opinions Below	1
Jurisdiction	2
Question Presented	2
Statutes Involved	2
Statement of the Case	3
Reasons for Granting the Writ	8
1. There is conflict between Courts of Appeals	8
2. There is an absence of a definite standard to be used in the construction of the Act	9
3. The Court of Appeals decision has raised an important question of federal law which has not, but should be settled by this Court	12
Conclusion	13
Appendix--	
Judgment of the Court of Appeals	1a
Decision of the Court of Appeals	1a
Opinion of the District Court	2a

Cases Cited

Arroya v. United States, 359 U.S. 419 (1959) 8, 10

Blassie v. Kroger Company, 345 F. 2d 58 (8th Cir., 1965) 8, 10

Employing Plasterers Association v. Journeymen, 279 F. 2d 92 (7th Cir., 1960) 11

United States v. Ryan, 350 U.S. 299 (1956) 8, 10

Statutes Cited

	Page
28 U.S.C. §186(e)	3
28 U.S.C. §1254(1)	2
29 U.S.C. §186(c)(5)	2
46 U.S.C. §599(g)	13

Other Authorities

The President's Advisory Committee on Labor Management Policy, Report on Automation (Government Printing Office, January 11, 1962) 12

United States Department of Labor Bulletin No. 1319, Implications of Automation and other Technological Developments 12

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Petitioners pray that a Writ of Certiorari issue to review the judgment of the United States Court of Appeals for the Third Circuit entered in the above case on January 27, 1966.

CITATIONS TO OPINIONS BELOW

The opinion of the Court of Appeals has not been reported as yet. The opinion of the District Court is reported at 223 F.Supp. 489. Both opinions are reprinted in the appendix hereto.*

* References to the appendix appended hereto are by the letter "a".

JURISDICTION

The judgment of the Court of Appeals was entered on January 27, 1966. The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

QUESTION PRESENTED

1. Where only one of many stevedore employers makes financial contributions to a fund created pursuant to the resolution of a labor dispute involving job reduction due to automation, does Section 302(c)(5) of the Labor Management Relations Act permit an entire union membership to participate as beneficiaries of such fund without regard as to whether individual union members were ever employed by the contributing employer?

STATUTES INVOLVED

The only statute involved is Section 302(c)(5) of the Labor Management Relations Act of 1947 [29 U.S.C. §186(c)(5)], as amended, which provides:

> "(c) The provisions of this section shall not be applicable . . . (5) with respect to money or other thing of value paid to a trust fund established by such representative for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents). . . ."

STATEMENT OF THE CASE

Federal jurisdiction in the first instance is based upon Section 302(e) of the Labor Management Relations Act, Title 28 U.S.C. §186(e).

The petitioners commenced this action in the District Court For The Eastern District of Pennsylvania seeking declaratory and injunctive relief pertaining to a trust fund established pursuant to a Collective Bargaining Agreement between the respondents, International Longshoremen's Association, Local 1291 (I. L. A.), and the Philadelphia Marine Trade Association (P. M. T. A.). The Philadelphia Marine Trade Association is an association of companies, including fifteen to eighteen stevedoring companies, rendering marine services in the Port of Philadelphia. It acts as the collective bargaining agent for its members with the I. L. A.

The I. L. A. is the collective bargaining agent for all deep-sea longshoremen who engage in the handling and discharging of ocean-going vessels in the Port of Philadelphia.

The petitioners are longshoremen who are members of the I.L.A. and who formerly were engaged with a fair degree of regularity at the Pennsylvania Sugar Division Pier in the unloading of raw sugar for Jarka Corporation, a stevedoring company and a member of the P. M. T. A.

On December 23, 1959, P. M. T. A. and I. L. A. entered into a collective bargaining agreement. Section 13(d) of that Agreement provides:

> ". . . Should a system of royalties be determined between the parties hereto as an appropriate method of compensating longshoremen who may lose job opportunities as a result of technological advancements, then the amount of such royalty shall be predicated upon the royalties paid for the same or a similar device in the Port of New York, provided that the amount of the royalty shall be in proportion to the royalty paid in New York as the reduction in a number of men employed bears to the reduction in the number of men employed in the Port of New York."